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Held at the Palais des Nations, Geneva,
on Friday, 17 November 1995, at 10 a.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.234/Add.1.

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GE.95-14491 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of the United Kingdom of Great Britain and Northern Ireland and dependent territories (CAT/C/25/Add.6)

1. At the invitation of the Chairman, Mr. Morris, Mr. Steel, Mr. Carter, Mr. Withers, Mr. Bramley, Ms. Spencer, Mr. Stephen Wong, Mr. Peter Wong, Mr. Chan, Mr. Dean, Ms. Foulds and Ms. Doherty (United Kingdom) took seats at the Committee table.

2. Mr. MORRIS (United Kingdom) began by speaking briefly about the United Kingdom's second periodic report (CAT/C/25/Add.6) to the Committee, which gave an account of measures adopted by his Government since the oral presentation of its initial report (CAT/C/9/Add.6) in 1992. In preparing the new report, an effort had been made to provide clarification on areas of particular interest to the Committee during the last oral presentation or on which members had sought further information.

3. He would focus on Part One (United Kingdom of Great Britain and Northern Ireland (Metropolitan Territory)) and Part Two (Crown dependencies: Guernsey, Jersey and the Isle of Man) of the second periodic report. As noted in Part One, Scotland and Northern Ireland had different legal jurisdictions and systems from those which applied in England and Wales, but similar principles applied throughout the United Kingdom. The report therefore attempted to provide an overview of how those principles applied throughout the United Kingdom, indicating where substantive differences arose in practice between different parts of the Kingdom.

4. As the second report indicated, there had been many developments in both policy and practice since the last oral presentation. In particular, important changes had been taking place in two areas in which the Committee had demonstrated considerable interest. The members of the Committee were, of course, aware of the most recent positive developments which had taken place in Northern Ireland over the past two years. His Government remained committed to seeking a widely acceptable and comprehensive political settlement through a process of political dialogue. Since the cease-fire declared by the Provisional IRA on 31 August 1994 and by the "Loyalist" terrorist organizations on 13 October 1994, there had been only one confirmed terrorist killing; but the terrorist organizations remained organized, armed and capable of a return to violence. Both Loyalist and Republican terrorist groups continued to impose their own brand of discipline upon their respective communities, carrying out vicious punishment, beatings and expulsions.

5. The cessation of violence in Northern Ireland had enabled his Government to respond by lifting most exclusion orders and withdrawing troops. The emergency powers were also used less and less by the army and the police. For example, between April 1994 and June 1994, 160 persons had been detained for more than 48 hours at a holding centre, and 158 of those had been delayed in

obtaining access to their solicitor. In the corresponding period in 1995, not a single person had been held for over 48 hours, nor had any person been delayed in obtaining access to his solicitor.

6. His Government had always made clear that the exceptional powers under the Prevention of Terrorism (Temporary Provisions) Act 1989 and the Northern Ireland (Emergency Provisions) Act 1991 were temporary and would not be retained any longer than necessary. That was why both Acts had to be renewed each year with the approval of Parliament. Following independent reviews of the operation of the legislation, which took into account the cease-fires, Mr. John Rowe Q.C. (the independent reviewer) had concluded that the Acts were still necessary, and they had been renewed for a further year. The Secretary of State for Northern Ireland had then announced, on 25 August, that, providing the cease-fires continued, the Government would shortly undertake an authoritative and independent review of whether counter-terrorist legislation, which would cover both the Prevention of Terrorism Act in the United Kingdom and the Northern Ireland (Emergency Provisions) Act, was still needed on a United Kingdom-wide basis.

7. The Committee might also be interested to know that the Secretary of State for Northern Ireland had announced to the United Kingdom Parliament on 12 June that, following consultations with the Chief Constable of the Royal Ulster Constabulary, the British Government would consider the introduction of an electronic recording scheme inside the holding centres in Northern Ireland if the security situation continued to require such centres. Rates of remission for terrorist prisoners had been increased to achieve parity with other prisoners in Northern Ireland.

8. United Kingdom prisons had also seen many developments since the previous oral presentation. The second periodic report set out the many measures taken by his Government over the past few years to eliminate overcrowding and provide decent conditions for prisoners. In England and Wales, no prisoners had been held three to a cell designed for one since March 1994, and the numbers sharing two to a cell had been halved, with 6,400 extra places planned before the end of the decade. Ninety-six per cent of prisoners now had access to sanitation at all times, and the Prison Service expected to raise that figure to 100 per cent by February 1996, the date recommended by Lord Justice Woolf.

9. Those examples should demonstrate to the Committee that the United Kingdom was not complacent on such matters, that it kept all its arrangements for ensuring the prevention of torture or other forms of cruel, inhuman or degrading treatment under review, and that it remained alert to the need to provide proper protection to those who might be vulnerable to such abuses, while also attaching due priority to the protection which must be afforded to the public at large.

10. Part Two of the second periodic report contained initial reports on Guernsey, Jersey and the Isle of Man, following the extension to them of the ambit of the Convention. Each of those islands had its own distinct identity and legislature and different arrangements might apply in each. In all cases, however, legislation and administrative practice were broadly comparable, and in many respects identical or common, to those prevailing within the

United Kingdom as a whole. The initial report for each island made clear where provisions applied which differed significantly from those of the United Kingdom.

11. Mr. STEEL (United Kingdom) said that his statement would relate to Part Three of the second periodic report (The Dependent Territories). The Committee had before it the initial reports for Bermuda and Hong Kong and the second periodic reports for the other dependent territories. His Government had supplemented the latter reports at the Committee's request and subsequently provided detailed additional information in writing. At the time, the Committee had expressed itself as being broadly reassured about the observance of the Convention in the territories concerned. Those situations had, for the most part, not materially changed in the past three years. Hence the brevity of the current reports on the territories.

12. A few territories had produced some supplementary material, which was set out in the respective reports. He did, however, wish to mention several points that were not in the reports. With regard to the Cayman Islands, he had informed the Committee during the oral presentation three years previously that they would shortly have a new Constitution which, as in many other dependent territories, would incorporate a full, and fully justiciable, Bill of Rights. Unfortunately, that had not been possible. But the proposal remained under consideration, and his delegation hoped to be able to report progress on that matter on a future occasion. In that context, it was also worth noting that there was now a provision in the Constitution for the establishment of an Office of the Complaints Commissioner.

13. Concerning Montserrat, it had been reported during the last oral presentation that new prison rules were being drafted for that dependent territory. Work had since been completed, and the draft was before the adviser on prisons for all the dependent territories for consideration; it was to be hoped that a new set of prison rules would come into force very soon.

14. Turning to the section on Bermuda (paras. 258 to 304), which constituted a very full initial report, he drew the Committee's attention to one minor detail: in paragraph 285 it was stated that an Order to add Bermuda to the list of those dependent territories to which the Extradition (Torture) Order 1991 extended was in the course of preparation and it was hoped that it would be made shortly. Unfortunately, owing to an administrative oversight, that Order had not yet been made, but it had been drafted and would be made as soon as formalities could be completed, no doubt in one or two months at most.

15. Before concluding, he wished to raise a technical point with regard to the Hong Kong report. The report as contained in document CAT/C/25/Add.6 was in certain respects not a faithful reproduction of the report forwarded by his Government. The report as submitted had contained a number of subheadings; there had also been several annexes. Regrettably, the editing section of the Centre for Human Rights had deleted all the subheadings. The changes introduced had made a reading more difficult.

16. Mr. Stephen WONG (United Kingdom) said that his statement would relate to paragraphs 320 to 449 of the second periodic report, on Hong Kong. The Convention had been extended to Hong Kong in December 1992; hence, the

Committee had before it Hong Kong's initial report. Like the extension of a number of other comparable agreements in recent years, that step had reflected a policy to which the Hong Kong Government had long been committed: one of promoting and protecting internationally recognized human rights in Hong Kong, both through formal legal processes and the adoption of appropriate administrative measures, and through the institution of the requisite social programmes.

17. As far back as 1976, the International Covenant on Civil and Political Rights had also been extended to Hong Kong. Article 7 of that instrument, a precursor of the Convention against Torture, categorically prohibited subjecting anyone to torture or to cruel, inhuman or degrading treatment or punishment. The International Covenants as applied to Hong Kong would continue in force even after Hong Kong reverted to Chinese sovereignty in July 1997, as expressly guaranteed by the Sino-British Joint Declaration of December 1984 and by the Basic Law of the Hong Kong Special Administrative Region. That was the law, which, as contemplated by the Joint Declaration, had been enacted by China in 1990 as a sort of mini-constitution which would be in force in Hong Kong as from 1 July 1997. Article 28 of the Basic Law itself prohibited torture expressly and unequivocally.

18. Wherever necessary or appropriate, the Hong Kong Government had taken the requisite steps to ensure that the provisions of the various human rights instruments that applied to Hong Kong were properly implemented in domestic law. In the case of the International Covenant on Civil and Political Rights, for example, the Hong Kong Legislative Council had, in 1991, enacted a Bill of Rights Ordinance (BORO) setting out the substantive provisions of the Covenant, including article 7, virtually verbatim and giving them the force of law.

19. A similar process had been followed for the Convention against Torture itself, i.e. through the enactment, in January 1993, of the Crimes (torture) Ordinance, a copy of which had been supplied to the Committee with the report. Its substantive provisions had been closely modelled on the relevant provisions of the Criminal Justice Act 1988 of the United Kingdom, which had given effect to the Convention against Torture in the metropolitan territory of the United Kingdom. The report also explained that the Ordinance did not merely create and define the offence of torture and provide an appropriately severe punishment for it - life imprisonment, as the Convention required; it also provided a number of procedural guarantees and safeguards which the Convention obliged States parties to have in place.

20. To supplement those various legal provisions which were of special relevance to the Convention against Torture, Hong Kong also had a number of institutions and administrative arrangements designed to make the provisions more meaningful and effective: a well-entrenched tradition of respect for the rule of law; a truly independent judiciary; and numerous channels for the redress of complaints, including a Commissioner for Administrative Complaints and an Independent Police Complaints Council. Those and similar safeguards were described in more detail in the report and in the core document for Hong Kong, which had been brought up to date in September 1995. A number of special initiatives had also been taken, and were currently being taken, to facilitate the handling of cases where human rights violations had occurred,

which would of course include any allegations of torture. Those initiatives included providing more resources to the judiciary to ensure that cases were heard expeditiously and making legal aid more readily available to persons pursuing claims under the Bill of Rights Ordinance. The Hong Kong Government was also considering strengthening the monitoring role of the Independent Police Complaints Council, in particular by appointing private citizens to observe the investigation of complaints.

21. The above matters were all discussed in the report. Concerning a number of recent developments, firstly, paragraph 361 of the report stated that consideration was being given to whether the extradition provisions of the Crimes (Torture) Ordinance adequately reflected the requirements of article 8 of the Convention. The review, since completed, had concluded that they did. Secondly, paragraph 376 said that work was in hand to amend the Prison Rules to delete the remaining, and of course obsolete, references to corporal punishment. The aim was to complete that task at the current legislative session. Lastly, paragraph 397 referred to the plan to make the Police Complaints Committee - now the Independent Police Complaints Council - a statutory body. A bill to that effect would be introduced at the current legislative session.

22. Mr. BURNS (Country Rapporteur), thanking the delegation of the United Kingdom for its oral presentation, said that he had never seen such a long report, just as he had never received so much NGO material addressed to the Committee relating to the report. At the outset, he wished to acknowledge the assistance of the NGOs, especially with regard to Northern Ireland, the Committee on the Administration of Justice for Northern Ireland, the British Irish Rights Watch, Amnesty International and Helsinki Watch, as well as persons who had made submissions on their own behalf. As far as Hong Kong was concerned, some of the questions that he would raise were based on material submitted by the Hong Kong Human Rights Monitor, the Hong Kong Human Rights Commission, the Hong Kong Law Reform Commission and, again, individuals.

23. He would focus on the United Kingdom as a whole, Northern Ireland and Hong Kong. Beginning with a number of individual paragraphs, he was pleased to note the legislative and administrative changes not only mentioned in the oral presentation but also outlined in paragraph 7 of the report, which were clearly designed to improve interrogation practices and provide civil-liberty safeguards. He concluded from paragraphs 10 to 13 that the United Kingdom remained unconvinced that the prohibition under article 3 of the Convention could be given legal or administrative expression.

24. He welcomed the introduction of the right to an appeal before removal for all those refused asylum (para. 21) and commended the United Kingdom for the emphasis it placed on education and training for law enforcement personnel (paras. 29 to 32).

25. He was particularly struck by the measures in place in England and Wales (para. 34) and in Scotland (para. 38) for the protection of persons charged with indictable offences, who could now have their interrogation taped. The same practice applied in Northern Ireland where non-terrorist suspects were concerned (para. 40).

26. The Committee was disappointed that, despite the cease-fire in Ulster, all the emergency powers of the police and the army remained in force. There was no need to reiterate the concern expressed during the presentation of the United Kingdom's first initial report that the emergency powers provided the conditions for abuse of State power; the evidence available to the Committee suggested that such abuse continued to occur, albeit with a lower level of violence.

27. The Committee welcomed the Codes of Practice, and the appointment of an Independent Commissioner for the Holding Centres in Northern Ireland and an Independent Assessor of Military Complaints Procedures as ameliorating factors. However, information had been received which indicated that the interrogations conducted at least at Castlereigh might still sometimes breach articles 1 and 16 of the Convention, although interrogations at Castlereigh which did breach the Convention were qualitatively less rigorous than when the United Kingdom had last come before the Committee, the complaints relating mainly to slapping on the head above the hairline and abusive language.

28. It was significant that one law firm had acted for 75 clients who had received ex gratia payments from the Government. Although the basis of the payments had not been clear from the material submitted, there had presumably been allegations of false imprisonment and/or assault; furthermore, since the payments were ex gratia, the Government had admitted no wrongdoing. The average award had amounted to £2,187 and 13 awards had been of £4,000 or more. He therefore asked the delegation to try to obtain information that would enable the Committee to draw a comparison with the ex gratia payments made by the London Metropolitan Police.

29. The Committee reiterated its view that the incommunicado interrogation of suspected terrorists would inevitably lead to breaches of the Convention and noted that even under the emergency powers, subjects interrogated on the mainland had always been granted access to counsel, while the non-granting of counsel had been restricted to Northern Ireland. It had been mentioned in the introductory statement that all interrogated detainees in Northern Ireland were now entitled to the assistance of counsel during their interrogation; he sought the delegation's confirmation that that was in fact the case.

30. The Committee would also like to be given the relevant data on prosecutions or disciplinary proceedings against police officers in Northern Ireland resulting from interrogations involving ex gratia payments, as the data in paragraphs 111 to 113 of the report (CAT/C/25/Add.6) gave no indication whether or not interrogation had been involved.

31. The Committee also sought confirmation that when complaints were made about police conduct in Northern Ireland the police themselves carried out the investigation, and that there was no separate or independent investigatory body, even though there might be a subsequent supervisory authority. Furthermore, in the light of the current cease-fire, was there any intention on the part of the Northern Ireland Government to re-educate serving police and prison officers so that they would understand human rights values as they existed within the normal legal and social system? The Committee considered

that there would be a need to provide resources for widespread re-education of serving officers if the peace took a firm hold. Were any steps being taken already in that direction?

32. The Committee acknowledged the information about emergency powers being temporary, but understood that the British Government had indicated that there was a need for such powers and that the reform referred to would ultimately amount to generic legislation applicable to the whole of the United Kingdom, in which case emergency powers would apply equally throughout the United Kingdom. The delegation's comments on that point were invited.

33. It had been disappointing to read recent newspaper reports that the Government proposed to renew emergency-powers legislation in 1996, presumably in anticipation of a relatively long public debate on the question of what the permanent emergency powers should be.

34. The Committee had welcomed the very detailed information it had received regarding prison conditions, and complimented the British Government on its extensive prison building programme. It also welcomed the fact that steps were being taken to prevent suicide in prisons and immigration detention centres (as discussed in paras. 71 to 89 of the report). The suicide rate nevertheless appeared high and he suggested that in its third periodic report the United Kingdom might include a comparison between the United Kingdom rate and that in other Western European countries such as Germany and France.

35. The Committee had been pleased to note the appointment of a Prisons Ombudsman in 1994 and appreciated the very broad action which the United Kingdom was taking in different parts of the justice system in support of human rights values. The Committee had also noted the comprehensive criminal injuries compensation scheme now in place in the United Kingdom and the property damage scheme in place in Northern Ireland.

36. Information had been received relating to the continued use by the army of plastic bullets for crowd control in Northern Ireland. It indicated that the army continued to use those bullets in non-riotous circumstances, such as peaceful demonstrations. As such bullets could injure or even be lethal, the Committee would like to know the rules on the use of plastic bullets.

37. The United Kingdom had been severely criticized by the press and NGOs in connection with the results of some involuntary deportation cases, such as the Joy Gardner case. What changes in training and techniques had resulted from that case?

38. With regard to asylum-seekers, the Chahal case gave the Committee cause for concern. Mr. Chahal was a Sikh due to be involuntary returned to India where, he claimed through his counsel, he would be in danger of being subjected to torture, as envisaged in article 3 of the Convention. The evidence as summarized by Amnesty International and presented before the European Commission on Human Rights was much stronger than evidence which the Committee had acted upon in the past. As the United Kingdom Government had not ratified article 22 of the Convention, Mr. Chahal could not submit an individual communication to the Committee. However, article 3 imposed a duty on the United Kingdom, independently of any individual communication, not to return anyone in circumstances in which the return would be in breach of

article 3. As the matter was currently before the European Court, he merely wished to draw the matter to the attention of the delegation and to point out that, under article 2, paragraph 2, of the Convention, no State which had ratified the Convention could return anybody to another State where they might be tortured for alleged reasons of national emergency.

39. Another matter which had been drawn to his attention by various NGOs related to the practice in UK prisons of strip-searching male and female prisoners in circumstances when there was no opportunity for them to come into contact with another person other than verbally. The example given had been that of a female prisoner about to be interviewed by her solicitor, from whom she would be separated by a perspex security screen. As a matter of course, she would be strip-searched before and after the interview. He wondered what the purpose of that search was and whether it did not come into conflict with the prohibition of degrading treatment under article 16.

40. On the question of asylum, the Committee had been informed of cases which appeared at first sight to violate the obligations of article 3 of the Convention. Comments from the delegation on those cases would be welcome. One case, at the beginning of 1994, had involved the return of a Zairian asylum-seeker to France by the United Kingdom without reviewing his asylum application; he had subsequently been returned to Zaire and killed. Another case, which had occurred in February 1994, had involved the return of an Algerian asylum-seeker to his country of origin, where he had been killed. The report by Amnesty International entitled "Home Office practice in safe third-country asylum cases", published in June 1995, referred to similar cases. Those incidents caused great concern to the Committee, and its members wished to know what the United Kingdom Government was doing to avoid such consequences in future, and what criteria were being applied in determining whether a third country was safe.

41. Turning to the report on Hong Kong, the Committee had noted with satisfaction that the definition of the crime of torture in the Ordinance was essentially that of the Convention and also noted that the penalty for that crime was a life sentence, probably the most severe penalty in any country for torture. The Committee consequently acknowledged the seriousness with which Hong Kong considered the crime. Had all the provisions of the Convention been adopted in the Ordinance and if not, why not? Was Hong Kong considering adopting article 22 of the Convention?

42. Turning to paragraph 329 of the report, he asked whether the statement meant that a person could commit torture and be excused or justified for his action, and how could any act of torture ever be lawful when by definition it was unlawful.

43. The Committee had received from NGOs a large amount of material on Hong Kong, including a number of newspaper accounts that appeared to relate to casual acts of brutality by police officers towards members of the public, particularly in their initial contacts with them. The report contained data relating to complaints from members of the public, but curiously many had been withdrawn. Was there any explanation for that large rate of withdrawal?

44. Paragraph 385 of the report appeared to imply that electro-convulsive therapy could be imposed on any psychiatric patient provided that two doctors were willing to endorse it. How could that situation be reconciled with article 16 of the Convention?

45. The Committee noted with approval the Criminal and Law Enforcement Injuries Compensation Scheme, referred to in paragraph 415 of the report, but sought an explanation as to the rationale of the restriction relating to residency. Why should only residents obtain compensation for being brutalized as the result of a violent crime? Furthermore, was a Vietnamese boat person who might have been in Hong Kong for a period of years a resident? An explanation as to what constituted a resident of Hong Kong would be useful.

46. How, after 1997, could there be any guarantee that Hong Kong would comply with all the provisions of the Convention which it had brought into effect, for example, article 20, which was not one of the articles which China was obliged to observe because it had declared against it at the time of ratification. As the United Kingdom on behalf of Hong Kong had not declared against it, the provision still applied. Would it therefore remain in effect after 1997 or lapse?

47. With regard to press reports of complaints about police interrogation techniques, which had given the impression that the police were extraordinarily rigorous in their methods in Hong Kong, he wondered how the authorities would ensure that the provisions of article 16 were implemented. Were police officers in their educational training specifically advised of Hong Kong's obligations under the Convention?

48. Noting that the Law Reform Commission of Hong Kong had recommended the adoption of the United Kingdom Police and Evidence Act 1984, which established a series of very specific protections upon arrest, he wondered whether there had been any moves by the Hong Kong Government to adopt those recommendations.

49. A considerable amount of information had been provided by both the United Kingdom and NGOs on Vietnamese detainees, and there was disagreement between them as to the conditions under which the detainees were held. Particularly bearing in mind article 16 of the Convention, he asked the delegation to describe the specific oversight administrative processes in place to ensure that the treatment of those people was not cruel, inhuman or degrading.

50. He also wished to know how the Hong Kong Government ensured that its obligation under article 3 was complied with, particularly with reference to Vietnamese boat people but not confined to them. Did the Government advise a person who was being returned or deported that he had the right not to be returned or deported where there were substantial grounds for believing that he would be in danger of being subjected to torture? Had the Hong Kong Government any concerns about the efficacy of sections 5 and 6 of the Crimes (Torture) Ordinance relating to extradition? If so, what steps were being taken to remedy the deficiencies? Had there been any cases in which the Attorney General's consent to prosecute for the crime of torture had been sought and, if so, had consent been granted?

51. While applauding the seriousness with which the offence of torture was considered in Hong Kong, and noting the extremely strong penalty attached to it, the Committee felt that there was likely to be great psychological pressure on prosecutors not to prosecute, particularly in the case of police officers whose conduct had exceeded certain bounds. Had any thought been given to the fact that, with so rigorous a penalty, it might be impossible to persuade prosecutors to prosecute under that category rather than under aggravated or ordinary assault? Finally, he wondered what was meant by "public official" for the purposes of the Ordinance.

52. Mr. EL IBRASHI (Alternate Country Rapporteur) joined Mr. Burns in thanking the United Kingdom delegation for its very comprehensive report, for its cooperation with the Committee and for the very open discussions which it had made possible. The Committee was also grateful to the various NGOs which had provided it with information that had been helpful in discussions.

53. According to information received from NGOs, the emergency legislation in Northern Ireland had been kept intact despite the August 1994 peace agreement that had initiated the cease-fire, which had since been respected by both sides. Given that there had not been an emergency situation for some 15 months, the only exchanges of shooting relating to assaults which the ordinary legislation could have dealt with, it was unfortunate that nothing had changed in the institutions themselves and that there was a real possibility of permanent legislation on emergency situations being introduced.

54. Addressing the matter of the special interrogation centre for suspected terrorists in Belfast, he noted that in spite of recommendations for its closure it appeared to remain in operation. The treatment of detainees at that centre differed from the standard treatment of detainees; they were not, for example, entitled to the services of a lawyer. He requested clarification on that point.

55. Over the previous 25 years, the use of plastic bullets in Northern Ireland had caused approximately 17 deaths. Such bullets were not supposed to be lethal, but if fired at a high velocity they could cause death. He wished for enlightenment on that issue.

56. He had three minor questions about the situation relating to dependent territories. The first concerned the statement in a previous report (CAT/C/9/Add.14) that there had been no cases in any of the territories, since the Convention had come into force in respect of them, in which a person had been convicted of the offence of torture or of an offence which could have been charged as torture or in which a person had been extradited for the offence of torture. He wondered whether that statement still held true. As to the police complaints procedure, he recalled Mr. Burns' observation that all actions were undertaken by the police authority. He asked whether a magistrate would be involved at the preliminary stage since, if criminal proceedings were to be instituted, they would, as he understood it, be conducted by a magistrate. He inquired whether there was still legal provision for corporal punishment; he gathered from the report that it was no longer inflicted in practice.

57. The Committee had received considerable information relating to the important issue of the treatment of coloured people. He wished to present some statistics for the purposes of subsequent clarification. According to Home Office statistics, the average proportion of black prisoners in British jails in June 1992 had been 15.9 per cent, while black people comprised only 4.4 per cent of the population. Reasons for that situation included the fact that a particular policy and practice were pursued in respect of the black community: black events were often over-policed; particular crimes were associated with young black people; black men aged between 16 and 24 were stopped approximately 10 times more frequently than other individuals; certain crimes were more likely to be reported to the police and therefore investigated than others; the likelihood of victims reporting crimes was affected by their perception of the ethnic origin of the perpetrator; police decisions relating to the treatment of juvenile offenders were race-related; for public offences and violence, white juveniles were twice as likely to be cautioned as their black counterparts; the proportion of young black men being taken into custody was twice as high as for their white counterparts; treatment of juveniles in the court system was race-related; black defendants were more likely to be held in custody while awaiting trial than white defendants; blacks were being inappropriately remanded in custody; blacks on average appeared to receive longer sentences than their white counterparts; black people were associated with particular crimes and were subjected to particular policing tactics by special units. One of the most dangerous points of contact between police and black people occurred during arrest; blacks were frequently stopped and questioned on the basis of a generalized suspicion and, if they protested or resisted, the situation frequently escalated towards violent confrontation.

58. On the matter of deaths in prison, he said that more unexplained or unnecessary deaths took place in prison than in police custody. Suicides accounted for a large proportion of black deaths in prison. He voiced his concern about aggravated suicides, violent treatment in prisons, death in hospital custody and the disastrous effects of leaving the mentally ill in a prison environment. He drew attention to the cases of Omasese Lumumba, an asylum-seeker from Zaire, and Mrs. Joy Gardner, both of whom had died in detention. Mr. Burns had referred to the question of methods of restraint in relation to the latter case. As those methods were also being used by private security agencies, he wished to know whether they were deemed to be medically safe and whether they presented a threat to detainees. Were such methods still being used and was there a related training system for police officers?

59. He recalled that in cases of abuse victims had the right to sue the police in civil proceedings. He inquired how many cases had been presented and what amount of damages had been paid to persons who had allegedly suffered ill-treatment. Information received had suggested that in such proceedings white officers went unpunished; the case of Mrs. Joy Gardner was an example of that approach.

60. Mr. SORENSEN thanked the delegation for its comprehensive report and welcome cooperation. He had been head of the delegation which had visited the United Kingdom the previous year on behalf of the Council of Europe Committee for the Prevention of Torture. As that delegation's report had not yet been

published and was still bound by confidentiality, he would not participate in the discussion of any point covered by the report and would restrict himself to medical problems.

61. The education of medical and health personnel, provided for in article 10 of the Convention, was an important issue. Those personnel should be able to recognize individuals who had been tortured in order to be able to assist them in accordance with article 14 of the Convention. The fact that some doctors participated in torture constituted a further reason why education regarding the prohibition of torture should be included in their training.

62. In connection with the dependent territories, he would welcome more information on training in Hong Kong and Bermuda. Did all doctors receive training and was there special training for forensic, police and military doctors?

63. Referring to article 14 of the Convention, which related to compensation he noted that victims should have redress, which related to moral rehabilitation, compensation, which related to money, and as full rehabilitation as possible, which meant medical rehabilitation. The sequelae of torture were severe, and without medical and psychological treatment victims could not properly pursue their lives. The only mention of such rehabilitation had concerned Bermuda, where there was access to treatment in normal hospitals. He observed, however, that such rehabilitation often required specialized knowledge. He raised the question whether such rehabilitation existed, particularly in Hong Kong and other dependent territories situated in areas where there might be refugees who had been tortured.

64. Mr. GIL LAVEDRA expressed gratitude for the United Kingdom's detailed report. Following the observations of the Country Rapporteurs he would refer only to specific matters. He had noted with satisfaction the reforms of prison facilities and the introduction of the prison inspection system.

65. Taking up the question of the deportation of foreigners, he would welcome clarification of the use of private companies to carry out deportation. He noted that such companies might be using force and inquired about the training staff employed by such companies received, who monitored them and how they were selected. He understood that a joint review of procedures had been conducted by the Home Office and the police in January 1994 and wondered whether any regulations concerning such security companies had been enacted and whether they must meet the same standards as other law enforcement officials.

66. He had been surprised at the provision in the Criminal Justice and Public Order Act 1994 which authorized adverse conclusions to be drawn from a person's silence. The report stated that the legislation would not constitute a change in the rules of evidence. He requested clarification as that provision appeared to be at odds with the basic principle of the presumption of innocence in Western legislation. He wondered whether it was necessary in all cases of deportation to imprison the person to be deported.

67. The Committee had received many reports of ill-treatment relating to state-of-emergency legislation, particularly in holding centres in Northern Ireland. Did the relevant legislation still in force respect the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment and the Standard Minimum Rules for the Treatment of Prisoners as adopted by the United Nations? His understanding was that that was not the case, particularly with respect to communication with lawyers and to periods of detention. He asked whether any of those cases of ill-treatment had been reviewed by the Independent Commission for Police Complaints and how many disciplinary charges relating to abuse by police officers had been brought over the previous three years.

68. Mrs. ILIOPOULOS-STRANGAS thanked the delegation of the United Kingdom for its detailed report and oral presentation. She wished to return to a number of points raised by her colleagues which she considered to be particularly relevant.

69. Taking up Mr. Gil Lavedra's remarks concerning the presumption of innocence, she said the fact that current legal provisions enabled adverse inferences to be drawn from a person's silence was entirely contrary to the rule of law.

70. In relation to private security agencies used in the United Kingdom, she pointed out that the traditional role of the State was to safeguard public order. She asked why the Government felt it was unable to defend public order itself through its own agents, what the reasons for such privatization were and which safeguards applied to such agencies. Which legal and practical means ensured that the transfer of public authority to private parties did not endanger the primary responsibility of the State to guarantee the freedoms of its citizens?

71. A number of reports had been received from NGOs concerning ill-treatment of asylum-seekers during expulsions, involving force and deaths in detention. Was the principle of proportionality, so crucial in law, practised by police officers in the United Kingdom? Referring to the case of Mrs. Joy Gardner, who had died in the presence of four police officers, she found it hard to believe that by the simple act of screaming, a woman could have posed a threat. Many of the cases referred to by the NGOs had resulted in impunity and sometimes no disciplinary procedures had been instituted. She would welcome information on cases in which police officers had been punished.

72. In the matter of expulsion to countries where detainees could be subjected to torture, she understood that in cases where national security was invoked there was no judicial control and essentially no right of appeal. United Kingdom legislation did not prohibit the expulsion of individuals to countries where they risked being subjected to torture, ill-treatment or even extrajudicial execution. Given the United Kingdom's dual system with respect to national and international law, she asked what the safeguards were for individuals as at the national level they were not entitled to invoke the Constitution and at the international level the United Kingdom had not accepted the competence of the Committee against Torture to receive communications under article 22 of the Convention. She wished to know the United Kingdom's obligation in that respect.

73. On the question of the state-of-emergency legislation in Northern Ireland, she expressed the hope that the new legislation currently in the course of preparation would take account of the State's international obligations, and in particular of article 2, paragraph 2, of the Convention, in accordance with which no exceptional circumstances whatsoever should be invoked as a justification of torture.

74. Mr. SLIM thanked the delegation of the United Kingdom for its detailed written report and for its concise, well-documented oral presentation. He wished to raise four points. The first concerned the state-of-emergency legislation which remained in force in Northern Ireland. He found it difficult to understand that, given the new situation, such legislation still remained in force and special holding centres where the law was not always strictly applied remained open. Would a new policy be introduced to amend or cease the application of such legislation?

75. In relation to the enforcement of article 134 of the Criminal Justice Act 1988, and paragraph 4 in particular, he was of the opinion that there was a contradiction in the text. Article 1 established the principle of the prosecution of torture when it was perpetrated by a public official or person acting in an official capacity, yet paragraph 4 established a dangerous exception by allowing as a defence lawful authority, justification or excuse. That fact appeared to be irreconcilable with article 2, paragraph 2, of the Convention. Was it not time to resolve that contradiction and ensure that the Act was in conformity with the Convention?

76. He expressed concern about the implementation of paragraph 6 of article 134 of the Criminal Justice Act. He associated himself with Mr. Burns' remarks on that matter. The extreme severity of the punishment of the crime of torture, life imprisonment, was positive in absolute terms but could have dangerous repercussions in that judges and prosecutors could shy away from convictions because of the severity of the punishment. That problem should be addressed. It would be better to have a less severe, but entirely applicable, text. What was the delegation's opinion on amending the text in order to take better account of the provisions of the Convention?

77. Ratification of article 22 of the Convention would allow the Committee to receive individual communications. Was the ratification of that article under consideration and, if not, what were the obstacles to such ratification?

78. Mr. REGMI associated himself with the comments and questions raised by the Country Rapporteurs and the other Committee members. In accordance with the Committee's guidelines on the form and contents of periodic reports, the State party should provide information on new measures and developments relating to implementation of the Convention following the order of articles 2 to 16. Why did the report make no mention of article 1? A specific definition of torture should be incorporated into domestic legislation, together with the appropriate punishment.

79. He asked the delegation to explain in detail what the exact penalty was for the offence of torture under the Criminal Justice Act 1988. According to paragraphs 130 to 132 of the report, corporal punishment, which constituted cruel and inhuman punishment and was strictly prohibited by article 16 of the

Convention, was still in use in certain independent schools. NGOs had reported ill-treatment of suspects detained under emergency legislation in Northern Ireland, who were denied any visitors for the first 48 hours of their detention. Those procedures did not comply with international standards, in accordance with which detainees should be allowed to inform their families immediately of their arrest and be given prompt access to a judicial authority and to a lawyer or doctor of their choice. The State party should provide clarification. According to the January 1995 report of the Special Rapporteur on the question of torture (E/CN.4/1995/34), torture was most frequently practised during incommunicado detention, which should be made illegal.

80. The majority of detained asylum-seekers in the United Kingdom were held in penal institutions, often with convicted criminals and remand prisoners. The Immigration Act 1971 provided that an alien seeking admission to the country might be detained under the authority of an immigration officer while his or her application was being examined. If entry was refused, the alien might be kept in detention pending his or her removal. Such detention might be considered arbitrary and extrajudicial, as it did not conform to the legal protection provided to citizens subject to criminal proceedings, who in general had access to statutory periodic review of their detention pending trial. Nor were any reasons provided for the detention of an asylum-seeker. In that connection, the Human Rights Committee, in its concluding observations on the United Kingdom report at its fifty-fourth session (CCPR/C/79/Add.55), had stated that the treatment of illegal immigrants, asylum-seekers and those ordered to be deported, and, in particular, the use of excessive force in the execution of deportation orders gave cause for concern. What steps would the Government take to remedy the situation? Did guidelines exist on the detention of asylum-seekers? If so, a copy should be provided to the Committee.

The public part of the meeting rose at 12.20 p.m.